

**THE STATE OF NEW HAMPSHIRE**  
**Northern District of Hillsborough County**  
300 Chestnut Street  
Manchester, NH 03101 2490  
603 669-7410

EVAN MULHOLLAND ESQ  
ENVIRONMENTAL PROTECTION BUREAU  
33 CAPITOL ST  
CONCORD NH 03301-6397

- 07-E-0406 NH Dept of Environmental Services v. George Brooks

You are hereby notified that on October 22, 2008, the following  
order was entered in the above matter

re: FINAL DECREE:

(see copy of order attached hereto)

(Abramson, J.)

10/23/2008  
Date

/s/ John Safford  
Clerk of Court

cc: NH Department of Environmental Services  
George Brooks

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS  
Northern District

SUPERIOR COURT

Docket No. 07-E-0406

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

v.

GEORGE BROOKS

**PROPOSED FINAL DECREE**

**PARTIES**

1. The State of New Hampshire Department of Environmental Services ("Environmental Services" or "DES"), 29 Hazen Drive, P.O. Box 95, Concord, NH 03301-6509, is the State agency responsible for administering and enforcing RSA 485-C (the Groundwater Protection Act), RSA 146-A (Oil Discharge or Spillage in Surface Water or Groundwater) and the rules adopted thereunder.

2. The Defendant, George Brooks ("Defendant"), is an individual who resides in Windsor, NH. George Brooks has a mailing address of 1377 Second New Hampshire Turnpike, Windsor NH 03244. George Brooks and his wife, Joyce Brooks, formerly owned, as joint tenants, the land and buildings located at Route 31, Windsor, NH, Windsor Tax Map, Map 1, lot 14, and described on a deed recorded at the Hillsborough County Registry at book 7838, page 1277 (hereinafter "the Site" or "the Property").

**FACTS**

3. On September 10, 2007, the State filed a Petition for Injunctive Relief, Civil Penalties and Cost Recovery against the Defendant (the "Petition"). The State's

Petition alleged the Defendant violated RSA 485-C (the Groundwater Protection Act), RSA 146-A (Oil Discharge or Spillage in Surface Water or Groundwater) and the Ambient Groundwater Quality Standards (AGQS) set forth in N.H. Admin Rules Env-Or 603 (Table 600-1).

4. On November 15, 2007, the Petition was amended to add an allegation that the Defendant burned certain materials in violation of RSA 125-N:4 and N.H. Admin Rules Env-A 1001.08 (the "Amended Petition"). On December 12, 2007, the Defendant filed an appearance *pro se*.

5. On February 15, 2008 the Court entered a Notice of Default Judgment in accordance with Superior Court Rule 75.

6. On February 27, 2008, the Defendant filed an assented-to late Answer, but did not file a motion to remove the Default nor a motion for leave to file a late Answer.

7. The Court specifically incorporates herein the statements of fact and law set forth in the State's Amended Petition. The Court finds that the Defendant allowed oil, gasoline and other liquids from his scrap metal and vehicle salvage operation to seep into the groundwater beneath the Site in violation of RSA 146-A, of RSA 485-C and of N.H.

Admin Rules, Env-Or 603. ~~The Court also finds that monitoring wells that were installed~~

~~on the site have been damaged in violation of RSA 485-C:19, I. Further, the Court finds~~

that the Defendant has burned painted plywood, coated wire, and other non-conforming materials on the Property in violation of RSA 125-N:4 and of N.H. Admin Rules, Env-A 1001.08.

ORDER

*After evidentiary hearing on October 22, 2008 and*  
8. Based on the evidence before the Court, the Court issues the following

Order against the Defendant:

- A. The Defendant will immediately cease and desist from discharging oil, gasoline and/or other hazardous substances to the ground in violation of 146-A:14, I and from conducting an automobile salvage and repair business in such a way that discharges oil, gasoline and/or other hazardous substances to the groundwater.
- B. The Defendant will immediately cease and desist from repairing or salvaging vehicles or tanks of any kind on the Property.
- C. The Defendant will immediately seal, secure and label all oil-containing drums or containers on the Property in such a manner that prevents leaks as specified in N.H. Admin. Rules Env-Wm 807.06(b).
- D. The Defendant will immediately cease and desist from burying, damaging, or tampering any groundwater sampling well installed on the Property.
- E. The Defendant will immediately cease and desist from burning treated wood, coated wire, or anything other than leaves, brush and untreated wood.
- F. The Defendant shall, by November 15, 2008, pay, pursuant to RSA 146-A:9, \$5,907.31 (Five Thousand Nine Hundred and Seven Dollars and Thirty One Cents) to the State of New Hampshire for the costs incurred by Environmental Services in investigating and monitoring the site. This payment shall be by certified or bank check and shall be made payable to "Treasurer, State of New Hampshire," and mailed to Department of Justice, Environmental Protection Bureau, 33 Capitol Street, Concord, New Hampshire 03301, c/o Evan Mulholland. The Defendant shall be responsible for payment of all future cost recovery bills submitted to him by the Department of Environmental Services. Payment of such bills from the Department will be paid within thirty (30) days of receipt.
- G. The Defendant shall pay civil penalties for violations of RSA 146-A:14 and RSA 485-C:19, I, and RSA 485-C:6 to the State of NH, Department of Environmental Services, as set forth below.

H. The requirements of paragraphs A-E are prohibitions against the Defendant and any third party authorized to come onto the Property by the Defendant.

12. The Defendant shall be assessed \$100,000 in civil penalties which shall be payable on or before November 15, 2008 by certified or bank check and should be made payable to "Treasurer, State of New Hampshire," and mailed to Department of Justice, Environmental Protection Bureau, 33 Capitol Street, Concord, New Hampshire 03301 c/o Evan Mulholland.

13. Any violation of the agreements contained herein shall be cause for the Defendant to be held in contempt of Court and subject to such penalty as the Court may deem appropriate, including imprisonment. In the event of a violation of this Order, the State shall have the right to seek additional civil penalties and such other civil, criminal or equitable relief, as the Court may deem just and equitable.

14. Nothing contained in this Order shall relieve the Defendant of any liability he may have to Environmental Services for costs resulting from future environmental cleanup, removal and restoration expenses, pursuant to RSA 146-A:3-a, I.

15. Nothing in this Order shall be deemed to limit any authority of DES to take, direct, or order all appropriate action or to seek an order from the Court to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of hazardous material on at or from the Property.

16. The Court shall maintain jurisdiction over this litigation for the purpose of enabling any of the parties to apply to the Court at any time for such further order, direction and relief as may be necessary or appropriate for the enforcement of this Order, or to effectuate or enforce compliance with its terms, or to resolve disputes.

17. The Defendant shall provide Environmental Services and its representatives access at all times to the Property for the purposes of inspecting any activity related to the Order, including, but not limited to: monitoring the Site, verifying any data or information submitted to Environmental Services; obtaining samples; installing new groundwater monitoring wells or boreholes; assessing the need for, planning, or implementing additional response actions or remedial activities at or near the Property; assessing the Defendant's compliance with this Order; and inspecting and copying records, operating logs, contracts, or other documents maintained or generated by the Defendant or his agents.

18. Written notice as required under this Order shall be made to the following:

As to Environmental Services:

Sarah Kim, Hydrogeologist III  
Waste Management Division  
Department of Environmental Services  
Waste Management Division  
29 Hazen Drive, P.O. Box 95  
Concord, NH 03302-0095

With a copy to:

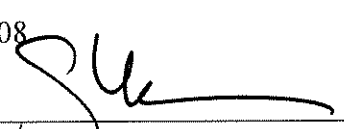
Evan J. Mulholland, Attorney  
Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301

As to George Brooks:

George Brooks  
1377 Second NH Turnpike  
Windsor NH 03244

19. This Order shall apply to and be binding on the parties, their successors and assigns.

SO ORDERED THIS 22<sup>nd</sup> DAY OF October 2008

  
\_\_\_\_\_  
Presiding Judge